

Subject
~~SECRET~~
NSDD

23 January 1984

OLL: 84-0303

MEMORANDUM FOR: Director of Central Intelligence

FROM:

[Redacted] Deputy Director, Office of Legislative Liaison

STAT

SUBJECT: 27 January White House Meeting on NSDD 84

1. We have learned from Richard Willard, Acting Assistant Attorney General, that the 27 January White House meeting, which you have been asked to attend, has been called at the Department of Justice's initiative in order to arrive at a clear Administration policy regarding the implementation of NSDD 84, including specifically the Directive's prepublication review provision. NSDD 84, a copy of which is attached, was the product of an initiative by Richard Willard and represents an attempt to institute some Presidentially-directed procedures to prevent leaks. Two provisions in the Directive, Section 1(b) regarding prepublication review and Section 5 regarding the use of polygraph, have caused considerable controversy in the press and on the Hill and have resulted in the enactment of legislation placing a moratorium on the expanded use of polygraph and prepublication review.

2. According to Willard, the following people have been invited to the 27 January meeting: Edward Schmults, Deputy Attorney General; Richard Willard; Jim Baker; Ed Meese; Michael Deaver; Bud McFarlane; Fred Fielding; Richard Darman; and the DCI. The purpose of the meeting is to permit Willard to set forth his understanding of the Administration's policy on leaks, as represented by NSDD 84, and to obtain a decision by the attendees at the meeting on how best to implement that policy, particularly vis-a-vis the Congress. As Willard sees it, the following options are available:

(a) Abandon the prepublication and polygraph provisions of NSDD 84 in the face of the vigorous opposition to them;

(b) Hold our ground on these two provisions, but be prepared to compromise in their implementation. A specific compromise suggested by Willard is to limit the prepublication review provision to a specified number of years after leaving office; or

(c) Develop an entirely new program to cope with the leaks problem, such as proposing

legislation to criminalize unauthorized disclosures or to provide civil penalties for unauthorized disclosures. Another new approach that Willard suggests for consideration at the meeting is to revise DoJ policies which restrict effective leaks investigations, such as DoJ's extreme reluctance to interview journalists or to compel their testimony in the course of leaks investigations.

3. It is important to note that there has been no suggestion from the Hill to alter the polygraph or prepublication programs now in place at CIA and NSA. The opposition to NSDD 84 is concentrated on the attempt to expand the use of these devices to officials outside CIA and NSA.

4. Willard is now preparing papers in preparation for the meeting which will be circulated among the attendees by Fred Fielding after he reviews them.

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Deputy Director, Office of Legislative Liaison

Attachment

cc: GC

Distribution:

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DD/OLL: (23 Jan 1984)

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THE WHITE HOUSE

WASHINGTON

March 11, 1983

National Security Decision
Directive Number 84

Safeguarding National Security Information

As stated in Executive Order 12356, only that information whose disclosure would harm the national security interests of the United States may be classified. Every effort should be made to declassify information that no longer requires protection in the interest of national security.

At the same time, however, safeguarding against unlawful disclosures of properly classified information is a matter of grave concern and high priority for this Administration. In addition to the requirements set forth in Executive Order 12356, and based on the recommendations contained in the interdepartmental report forwarded by the Attorney General, I direct the following:

1. Each agency of the Executive Branch that originates or handles classified information shall adopt internal procedures to safeguard against unlawful disclosures of classified information. Such procedures shall at a minimum provide as follows:

a. All persons with authorized access to classified information shall be required to sign a nondisclosure agreement as a condition of access. This requirement may be implemented prospectively by agencies for which the administrative burden of compliance would otherwise be excessive.

b. All persons with authorized access to Sensitive Compartmented Information (SCI) shall be required to sign a nondisclosure agreement as a condition of access to SCI and other classified information. All such agreements must include a provision for prepublication review to assure deletion of SCI and other classified information.

c. All agreements required in paragraphs 1.a. and 1.b. must be in a form determined by the Department of Justice to be enforceable in a civil action brought by the United States. The Director, Information Security Oversight Office (ISOO), shall develop standardized forms that satisfy these requirements.

d. Appropriate policies shall be adopted to govern contacts between media representatives and agency personnel, so as to reduce the opportunity for negligent or deliberate disclosures of classified information. All persons with authorized access to classified information shall be clearly apprised of the agency's policies in this regard.

2. Each agency of the Executive branch that originates or handles classified information shall adopt internal procedures to govern the reporting and investigation of unauthorized disclosures of such information. Such procedures shall at a minimum provide that:

a. All such disclosures that the agency considers to be seriously damaging to its mission and responsibilities shall be evaluated to ascertain the nature of the information disclosed and the extent to which it had been disseminated.

b. The agency shall conduct a preliminary internal investigation prior to or concurrently with seeking investigative assistance from other agencies.

c. The agency shall maintain records of disclosures so evaluated and investigated.

d. Agencies in the possession of classified information originating with another agency shall cooperate with the originating agency by conducting internal investigations of the unauthorized disclosure of such information.

e. Persons determined by the agency to have knowingly made such disclosures or to have refused cooperation with investigations of such unauthorized disclosures will be denied further access to classified information and subjected to other administrative sanctions as appropriate.

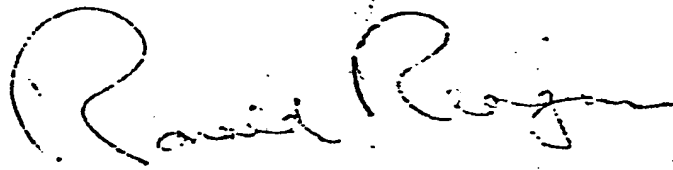
3. Unauthorized disclosures of classified information shall be reported to the Department of Justice and the Information Security Oversight Office, as required by statute and Executive orders. The Department of Justice shall continue to review reported unauthorized disclosures of classified information to determine whether FBI investigation is warranted. Interested departments and agencies shall be consulted in developing criteria for evaluating such matters and in determining which cases should receive investigative priority. The FBI is authorized to investigate such matters as constitute potential violations of federal criminal law, even though administrative sanctions may be sought instead of criminal prosecution.

4. Nothing in this directive is intended to modify or preclude interagency agreements between FBI and other criminal investigative agencies regarding their responsibility for conducting investigations within their own agencies or departments.

5. The Office of Personnel Management and all departments and agencies with employees having access to classified information are directed to revise existing regulations and policies, as necessary, so that employees may be required to submit to polygraph examinations, when appropriate, in the course of investigations of unauthorized disclosures of classified information. As a minimum, such regulations shall permit an agency to decide that appropriate

adverse consequences will follow an employee's refusal to cooperate with a polygraph examination that is limited in scope to the circumstances of the unauthorized disclosure under investigation. Agency regulations may provide that only the head of the agency, or his delegate, is empowered to order an employee to submit to a polygraph examination. Results of polygraph examinations should not be relied upon to the exclusion of other information obtained during investigations.

6. The Attorney General, in consultation with the Director, Office of Personnel Management, is requested to establish an interdepartmental group to study the federal personnel security program and recommend appropriate revisions in existing Executive orders, regulations, and guidelines.

A handwritten signature in dark ink, appearing to read "David Rosen". The signature is fluid and cursive, with a large initial "D" and "R".